

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAN JOHN JOSCUM,

Defendant.

CR 20–30–M–DLC

ORDER

Before the Court is the Government’s Unopposed Motion to Dismiss without Prejudice. (Doc. 43.) The Government seeks to dismiss the Superseding Indictment without prejudice under Federal Rule of Criminal Procedure 48(a). (*Id.*)

Rule 48(a) permits the Government to dismiss an indictment with leave of court. Fed. R. Crim. P. 48(a). In approving the dismissal, a court’s job is to ensure that the dismissal is not sought as a form or “prosecutorial harassment, e.g., charging, dismissing, and recharging . . . over the defendant’s objection,” or for some other improper purpose. *United States v. Weber*, 721 F.2d 266, 268 (9th Cir. 1983) (quoting *Rinaldi v. United States*, 434 U.S. 22, 29 n.15 (1977)).

Here, the Government seeks dismissal with Defendant's full cooperation (*see* Doc. 43 at 1), and there is no indication of any design to harass or prejudice the Defendant. Accordingly,

IT IS ORDERED that the Government's Motion (Doc. 43) is GRANTED. The Superseding Indictment (Doc. 32) is DISMISSED without prejudice.

IT IS FURTHER ORDERED that the trial currently set on February 1, 2021 is VACATED.

DATED this 4th day of December, 2020.



Dana L. Christensen, District Judge
United States District Court